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Ejectment by Laura B. Sims against Clendenning Capper and another. Judgment for defendants, and plaintiff brings error. Reversed, and judgment rendered for plaintiff.

James Sherier, of Washington, D. C., and *Amos C. Crounse* of Clarendon, for plaintiff in error.

Crandall Mackay, of Washington, D. C., for defendants in error.

STARKE et ux. v. STARKE et al.

June 15, 1922.

[112 S. E. 680.]

1. Appeal and Error (§ 1009 (3)*)—Finding on Conflicting Oral Testimony Entitled to Great Weight.—Finding of trial court on conflicting oral testimony in an equity case is entitled to great weight on appeal, and will not lightly be set aside.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 620.]

2. Appeal and Error (§ 717*)—Decree Controlling on Meaning of Trial Court's Opinion.—As against appellants' contention that the trial court's opinion shows it found in their favor, and then decreed in appellee's favor, its decree, being simply its interpretation of its opinion, and a finding on the facts in favor of appellees, is its authoritative and effectual opinion and judgment.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 609.]

3. Specific Performance (§ 121 (1, 4)*)—Proof of Contract Must Be Positive; Conflicting Testimony of Parties Not Sufficient Proof of Oral Contract for Land.—Those seeking specific performance of an alleged oral contract as to land partly performed have the burden of proving the contract by clear and convincing evidence, which is not satisfied where there is merely the positive conflicting testimony of the parties.

Sims, J., dissenting in part.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 710.]

Appeal from Circuit Court, Culpeper County.

Suit by H. Mason Starke and wife against Bruce Starke and others. Decree for complainants, and defendants appeal. Affirmed.

Grimsley & Miller, of Culpeper, for appellants.

E. H. Gibson and *Waite, Perry & Nottingham*, all of Culpeper, for appellees.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.